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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,910	11/03/2003	Christopher J. Cormack	ITL.1706US (P17675)	7764

21906   7590   04/15/2009
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TRAN, QUOC A

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
04/15/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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PTOL-90A (Rev. 04/07)

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/700,910
Filing Date: November 03, 2003
Appellant(s): CORMACK ET AL.

Timothy N. Trop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/06/2009 appealing from the Office action

mailed 09/15/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 20040236830A1   Nelson et al.   Filed 05/15/2003

US005600775A   King et al.   Filed 08/26/1994

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Nelson et al. US 20040236830A1 filed 05/15/2003 (hereinafter Nelson), in view of **King**

et al. US005600775A issued 02/04/1997 (hereinafter King).

In regard to independent claim 16,

The rejection of claims 1, 7, and 12 are fully incorporated, and is similarly

rejected along the same rationale. In addition, Examiner read the above in the

broadest reasonable interpretation to the claim limitation; wherein a point in the

index file would have been an obvious variant of *marker in the index file* of claim

12, thus incorporates substantially similar subject matter, to a person of ordinary

skill in the art at the time the invention was made.

In addition, Nelson teaches: (emphasis added).

receiving and storing annotation information associated with the

annotation request;

(See Nelson at page 1 paragraph [00016] through page 2 paragraph [0014], discloses

an annotation management configured to manage and store annotation data annotation

control data and also configured to provide real-time annotation data to clients of a

videoconference session is provided. The method initiates with annotating a display

region of a user interface associated with a client of the videoconference session. Then,

annotating of the display region is detected.)

In addition, Nelson does not expressly teach, but King teaches:

A method, comprising: outputting stored media information based

on an associated index file;

(See King at Fig.9 and also at Column 11, Lines 50-60, discloses data structure

includes an annotation document (900), an annotation list (901), and a note list (902).

The annotation list includes a number of annotations which have the structure shown

generally at (903), whereby the annotation document (900) includes a pointer (905) to

the indexed data file, such as video file 904, for which the annotation document has
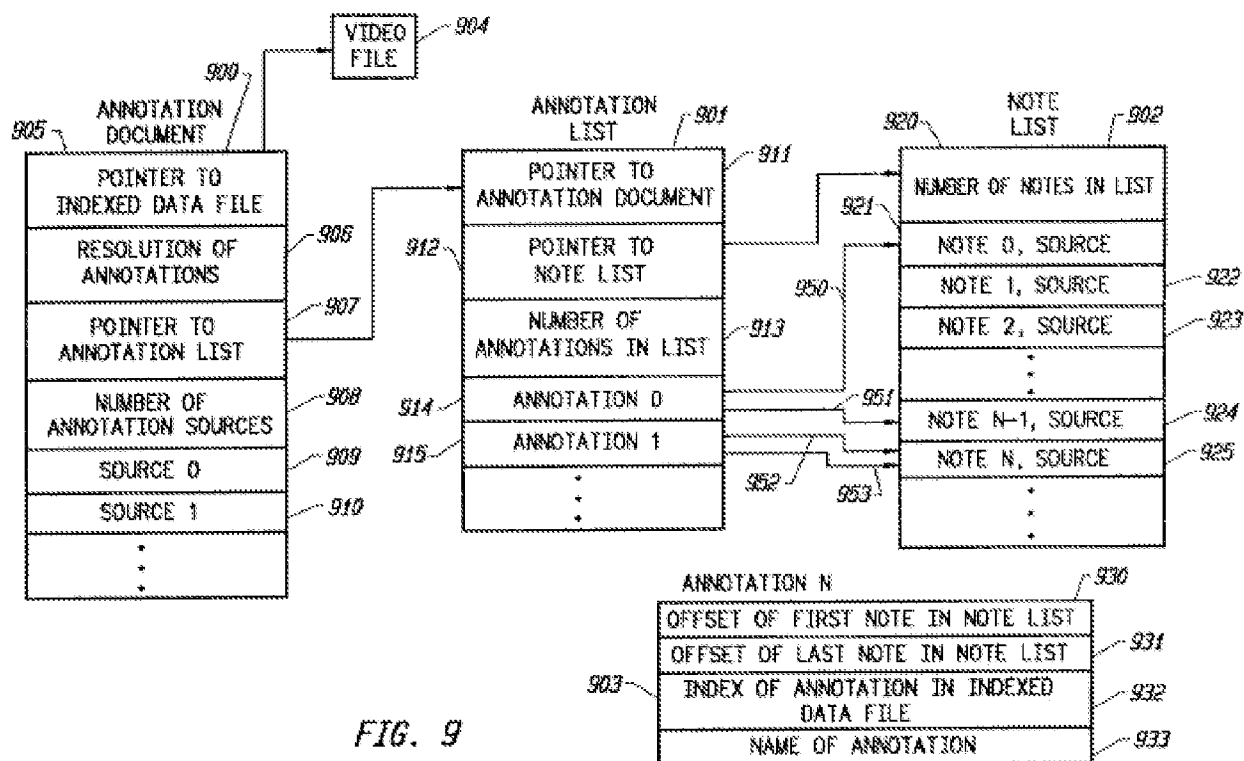
been created.

FIG. 9

Using the broadest reasonable interpretation the Examiner reads the claimed

outputting stored media information based on an associated index file as

equivalent to the indexed data file, such as video file 904, for which the annotation

document has been created as taught by King.

receiving an annotation request at a point in the index file;

(See King at Column 2,Lines 20-30, discloses in response to user input an indexed data

structure to be annotated from the file of indexed data structures being displayed,)

modifying the index file at the point at which the annotation request

was received to references the stored annotation information.

(See King at Column 2,Lines 20-30, discloses in response to user input an indexed

data structure to be annotated from the file of indexed data structures being displayed,

See also King at Column 3,Lines 15-25, discloses the types of annotations which

can be created and the annotation graphical element *can* be positioned on the screen

overlaying the indexed data structure using a pointer device which inputs coordinate

data for the annotation data structure.

Also see King at Fig. 9 and also at Column 12, Lines 1-10, discloses the

annotation list 901 includes a first field 911, which points back to the annotation

document 900. Also, a field 912 includes a pointer to the note list 902. A next field 913

indicates the number of annotations in the list. In this structure, an annotation has the

structure shown at 903, and identifies the number of notes, which have been created for

a given frame in the video file 904. After field 913, the following fields 914, 915 include

annotation structures, having the form shown at 903, using the broadest reasonable

interpretation it is the same as the annotation information associated with the reference

as claimed)

And also See King at Fig. 9 and also at Column 11, Line 50 → Column 12, Line

5, discloses the annotation document 900 includes a pointer 905 to the indexed data

file, such as video file 904, will constitute independently created annotation documents

which have been merged into a single annotation document, having a structure shown

at 900.)

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to have modified Nelson's teaching, discloses an annotation

management configured to receiving an indication that annotation of media information

is desired; storing annotation information and modifying of the media information to

reflect a presence of the annotation information, to includes a means of modifying an

index of the media information to reflect a presence of the annotation information, of

King's teaching, to provide a predictable result of outputting stored media information

based on an associated index file, wherein displaying the file of indexed data structures

using a file display routine (i.e. full motion video playback of full motion digital video-

King at Column 2,Lines 5-15), and provide an annotation tool that allows reductions in

production time, more effective utilization of resources, and greater communication in

general during creation of multimedia products or other large scale indexed data files in

real time interaction among developers and /or users (see King at col. 1 lines 25-67).

Claim 17, King teaches:

> **asking for a type of the annotation information before the receiving**
>
> **and storing.**

(See King at Column Line 15→Column 3, Lines 15-25, discloses the types of

annotations, which can be created, include free-hand bitmap drawings, text, and audio

data.

Also King at Column 2 Lines10-20, teaching the annotation data structure is

stored.)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Nelson's teaching, discloses an annotation management configured to receiving an indication that annotation of media information is desired; storing annotation information and modifying of the media information to reflect a presence of the annotation information, to includes a means of asking for a type of the annotation information before the receiving and storing as taught by King, to provide a predictable result of outputting stored media information based on an associated index file, wherein displaying the file of indexed data structures using a file display routine (i.e. full motion video playback of full motion digital video- King at Column 2,Lines 5-15), and provide an annotation tool that allows reductions in production time, more effective utilization of resources, and greater communication in general during creation of multimedia products or other large scale indexed data files in real time interaction among developers and /or users (see King at col. 1 lines 25-67).

Claim 18, incorporates substantially similar subject matter as cited in claims 1, 7, 12 and 16 above, and further view of the following, and is similarly rejected along the same rationale. In addition, King teaches: (emphasis added).

   detecting a reference to the stored annotation information in the
      index file;

(See King at the Abstract discloses during playback, the annotation memory is monitored to detect annotation data structure for indexed data structures currently being displayed.)

retrieving annotation information associated with the reference;

(See King Fig. 9 and also at Column 12, Lines 1-10, discloses the annotation list 901

includes a first field 911, which points back to the annotation document 900. Also, a field

912 includes a pointer to the note list 902. A next field 913 indicates the number of

annotations in the list. In this structure, an annotation has the structure shown at 903,

and identifies the number of notes, which have been created for a given frame in the

video file 904. After field 913, the following fields 914, 915 include annotation structures,

having the form shown at 903, using the broadest reasonable interpretation it is the

same as the annotation information associated with the reference as claimed)

selectively combining the media information and the annotation

information.

(See King Fig. 9 and also at Column 11,Line 50 → Column 12, Line 5, discloses the

annotation document 900 includes a pointer 905 to the indexed data file, such as video

file 904, will constitute independently created annotation documents which have been

merged into a single annotation document, having a structure shown at 900)

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to have modified Nelson's teaching, discloses an annotation

management configured to receiving an indication that annotation of media information

is desired; storing annotation information and modifying of the media information to

reflect a presence of the annotation information, to includes a means of detecting a

reference to the stored annotation information in the index file; retrieving annotation

information associated with the reference; selectively combining the media information

and the annotation information as taught by King, to provide a predictable result of

outputting stored media information based on an associated index file, wherein

displaying the file of indexed data structures using a file display routine (i.e. full motion

video playback of full motion digital video- King at Column 2,Lines 5-15), and provide an

annotation tool that allows reductions in production time, more effective utilization of

resources, and greater communication in general during creation of multimedia products

or other large scale indexed data files in real time interaction among developers and /or

users (see King at col. 1 lines 25-67).

Claim 19, Nelson teaches:

> **repeating the outputting stored media information based on an**
>
> **associated file(s) before the detecting a reference to the stored annotation**
>
> **information.**

(See Nelson at page 1 Para 6→ paragraph [00011] through page 2 paragraph [0014],

discloses the storage server is configured to store the media data and the annotation

data, wherein an event database in communication with the media management server

is included to capture events associated with the annotation data. The media analysis

server is configured to associate the stored annotation data with the captured events to

enable reconstruction of the videoconference session based on the captured events

and a graphical user interface (GUI) enabled to provide real-time annotation of display

data rendered on a display screen is provided. The GUI includes a media display region

corresponding to a media signal. The media display region is capable of being

annotated by a videoconference participant, wherein the annotation of the media display

region generates an event for storage on an annotation management server. The

annotation of the media display region further generates a signal presented to

remaining videoconference participants in real-time. A control display region enabling a

participant to define control properties associated with the media display region is

included.

In addition, Nelson does not expressly teach, but King teaches;

Index file, (emphasis added).

(See King at Column 2,Lines 15-20, discloses outputting stored media information

based on an associated index file, wherein displaying the file of indexed data structures

using a file display routine (i.e. full motion video playback of full motion digital video-

King at Column 2,Lines 5-15),

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to have modified Nelson's teaching, discloses an annotation

management configured to receiving an indication that annotation of media information

is desired; storing annotation information and modifying of the media information to

reflect a presence of the annotation information, to includes a means of modifying an

index of the media information to reflect a presence of the annotation information, of

King's teaching, to provide a predictable result of outputting stored media information

based on an associated index file, wherein displaying the file of indexed data structures

using a file display routine (i.e. full motion video playback of full motion digital video-

King at Column 2,Lines 5-15), and provide an annotation tool that allows reductions in

production time, more effective utilization of resources, and greater communication in

general during creation of multimedia products or other large scale indexed data files in

real time interaction among developers and /or users (see King at col. 1 lines 25-67).

Claim 20, King teaches:

> **determining whether the annotation information should be displayed,**
>
> **and combining the media information and the annotation information if the**
>
> **determining determines that the annotation information should be**
>
> **displayed.**

(See King at col. 2, line 15 through col. 12, line 60, discloses the video and annotations

are stored separately that provides an indexing scheme relates the annotations to the

video frames, wherein types of annotations, which can be created, include free-hand

bitmap drawings, text, and audio data. When audio data is used, an icon is used as the

graphical element of the annotation data structure, which can be displayed over the

indexed data structure to indicate presence of an audio annotation. Also, the annotation

graphical element can be positioned on the screen overlaying the indexed data

structure using a pointer device which inputs coordinate data for the annotation data

structure,

Further includes the output comparator (i.e. true, open or not or position within

note?) (See table on col. 8),

Examiner read the above in the broadest reasonable interpretation to the claim limitation; wherein whether the annotation information should be displayed would have been an obvious variant of further includes the output comparator (i.e. true, open or not or position within note?) (See table on col. 8), to a person of ordinary skill in the art at the time the invention was made.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Nelson's teaching, discloses an annotation management configured to receiving an indication that annotation of media information is desired; storing annotation information and modifying of the media information to reflect a presence of the annotation information, to includes a means of repeating the outputting stored media information based on an associated index file before the detecting a reference to the stored annotation information as taught by King, to provide a predictable result of outputting stored media information based on an associated index file, wherein displaying the file of indexed data structures using a file display routine (i.e. full motion video playback of full motion digital video- King at Column 2,Lines 5-15), and provide an annotation tool that allows reductions in production time, more effective utilization of resources, and greater communication in general during creation of multimedia products or other large scale indexed data files in real time interaction among developers and /or users (see King at col. 1 lines 25-67).

(10) Response to Argument

Brief description of cited prior arts:

Nelson et al, discloses a method and system for enabling real-time annotation features that may be viewed by participants of a videoconference system. Whereby, the virtual pointer functionality is provided so that a videoconference participant may emphasize, highlight or distinguish a portion of the user interface displayed by each of the clients associated with the videoconference participants, where the data corresponding to the videoconference session e.g., annotation data generated by the participants during the videoconference session, is stored by the annotation management server (See Nelson at Para 29).

King et al, discloses data structure includes an annotation document (900), an annotation list (901), and a note list (902). The annotation list includes a number of annotations which have the structure shown generally at (903), whereby the annotation document (900) includes a pointer (905) to the indexed data file, such as video file 904, for which the annotation document has been created (See King at Fig.9 and also at Column 11,Lines 50-60,) Also, King discloses various types of annotations, which can be created, and during playback, the annotation memory is monitored to detect annotation data structure for indexed data structures currently being displayed (See King at Fig.9 and also at Column 11,Lines 50-60, and also King at the Abstract.)

Beginning on page 10 of the appeal brief (hereinafter the brief), Appellant argues the following issues, which are accordingly addressed below.

Appellant argues, claims 16-20 improperly rejected under 35 USC 101(See the brief page 10 through most of page 11.)

The examiner respectfully agrees.

Thus, 35 USC 101 rejections to claims 16-20 presented in the Office Action dated 09/15/2006 hereby withdrawn.

In addition, Appellant argues, claims 16-20 improperly rejected under 35 USC 103 (a) of Nelson in view of King, because of the following reason:

> As to claim 16, Nelson and King do not teach," *modifying the index file at the point at which the annotation request is received to reference the stored annotation information, where the claim also requires that stored media information be output based on the associated index file.*" See the brief at page 13 through to half of page 15.

> As to claim 17, Nelson and King do not teach," *asking for a type of the annotation information before the receiving and storing.*" See the brief at bottom half of page 15.

> As to claims 18-20, Nelson and King do not teach," *detecting a reference to stored annotation information in the index file, and retrieving annotation*

information associated with the reference, and selectively combining the

annotation information and the media information." See the brief at

page 16.

Firstly, as to claim 16, Nelson and King do not teach," *modifying the index file at the*

point at which the annotation request is received to reference the stored annotation

information, where the claim also requires that stored media information be output

based on the associated index file." See the brief at page 13 through to half of page 15.

The examiner respectfully disagrees.

As discuss in the above (see the current Examiner Answer Pages 4-8), King

teaches, "*modifying the index file at the point at which the annotation request is*

received to reference the stored annotation information, where the claim also requires

that stored media information be output based on the associated index file."

 (See King at Column 2, Lines 20-30), discloses in response to user input an indexed

data structure to be annotated from the file of indexed data structures being displayed,

(See also King at Column 3, Lines 15-25), discloses the types of annotations which can

be created and the annotation graphical element can be positioned on the screen

overlaying the indexed data structure using a pointer device which inputs coordinate

data for the annotation data structure.

Also (see King at Fig. 9 and also at Column 12, Lines 1-10), discloses the

annotation list 901 includes a first field 911, which points back to the annotation

document 900. Also, a field 912 includes a pointer to the note list 902. A next field 913

indicates the number of annotations in the list. In this structure, an annotation has the

structure shown at 903, and identifies the number of notes, which have been created for

a given frame in the video file 904. After field 913, the following fields 914, 915 include

annotation structures, having the form shown at 903, using the broadest reasonable

interpretation it is the same as the annotation information associated with the reference

as claimed.

Finally, King constitutes independently created annotation documents which

have been merged into a single annotation document, having a structure shown at 900

the annotation document 900 includes a pointer 905 to the indexed data file, such as

video file 904 (See King Fig. 9 and also at Column 11,Line 50 → Column 12, Line 5,)

FIG. 9
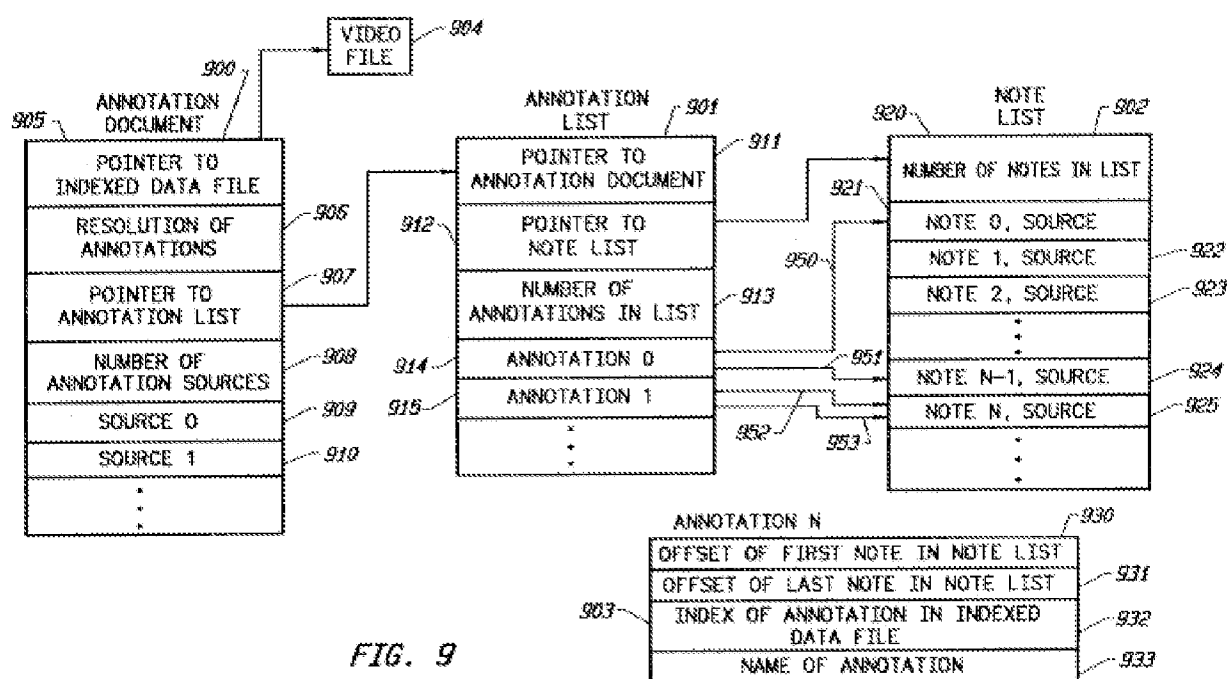
Also, Nelson teaches *receiving and storing annotation information associated*

with the annotation request; (See Nelson at page 1 paragraph [00016] through page 2

paragraph [0014]), discloses an annotation management configured to manage and

store annotation data annotation control data and also configured to provide real-time

annotation data to clients of a videoconference session is provided. The method

initiates with annotating a display region of a user interface associated with a client of

the videoconference session. Then, annotating of the display region is detected. Using

the broadest reasonable interpretation, it in noted, in order for Nelson to display store

annotation data annotation of a videoconference session, it is reasonable understood

the storing and retrieving data from the data file storage would required indexed schema

to structure of data file, particularly when a pointer is applied to the video file as claimed

by Nelson as cited above.

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to have modified Nelson's teaching, discloses an annotation

management configured to receiving an indication that annotation of media information

is desired; storing annotation information and modifying of the media information to

reflect a presence of the annotation information, to includes a means of modifying an

index of the media information to reflect a presence of the annotation information, of

King's teaching, to provide a predictable result of outputting stored media information

based on an associated index file, wherein displaying the file of indexed data structures

using a file display routine (i.e. full motion video playback of full motion digital video-

King at Column 2,Lines 5-15), and provide an annotation tool that allows reductions in

production time, more effective utilization of resources, and greater communication in

general during creation of multimedia products or other large scale indexed data files in

real time interaction among developers and /or users (see King at col. 1 lines 25-67).

Following KSR direction as following: "SUPREME COURT OF THE UNITED

STATES No. 04–1350 KSR INTERNATIONAL CO., PETITIONER v. TELEFLEX INC.

ET AL. ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR

THE FEDERAL CIRCUIT [April 30, 2007], (page 2-3 of the court opinion) Following Graham v.

John Deere Co. of Kansas City, 383 U. S. 1 (1966), the Court set out a framework for applying

the statutory language of §103, language itself based on the logic of the earlier decision in

Hotchkiss v. Greenwood, 11 How. 248 (1851), and its progeny. See 383 U. S., at 15–17. The

analysis is objective:

> "Under §103, the scope and content of the prior art are to be determined; differences
> between the prior art and the claims at issue are to be ascertained; and the level of ordinary
> skill in the pertinent art resolved. Against this background the obviousness or
> nonobviousness of the subject matter is determined. Such secondary considerations as
> commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to
> give light to the circumstances surrounding the origin of the subject matter sought to be
> patented." Id., at 17–18.

While the sequence of these questions might be reordered in any particular case, the factors
continue to define the inquiry that controls. If a court, or patent examiner, conducts this analysis
and concludes the claimed subject matter was obvious, the claim is invalid under §103. Seeking
to resolve the question of obviousness with more uniformity and consistency, the Court of
Appeals for the Federal Circuit has employed an approach referred to by the parties as the
"teaching, suggestion, or motivation" test (TSM test), under which a patent claim is only proved
obvious if "some motivation or suggestion to combine the prior art teachings" can be found in
the prior art, the nature of the problem, or the knowledge of a person having ordinary skill in the
art. See, e.g., Al-Site Corp. v. VSI Int'l, Inc., 174 F. 3d 1308, 1323–1324 (CA Fed. 1999). KSR
challenges that test, or at least its application in this case. See 119 Fed. Appx. 282, 286–290
(CA Fed. 2005). Because the Court of Appeals addressed the question of obviousness in a

manner contrary to §103 and our precedents, we granted certiorari, 547 U. S ___ (2006). We now reverse.

Using the broadest reasonable interpretation, and cites evidences above, the Examiner had found that Nelson in view of King have taught all the limitation of claim 16 and the Examiner has established <u>"some motivation or suggestion to combine the prior art teachings" can be found in the prior art, the nature of the problem, or the knowledge of a person having ordinary skill in the art.</u> See, e.g., Al-Site Corp. v. VSI Int'l, Inc., 174 F. 3d 1308, 1323–1324 (CA Fed. 1999). KSR challenges that test, or at least its application in this case. See 119 Fed. Appx. 282, 286–290 (CA Fed. 2005).

Accordingly, for at least all the above evidence, therefore the Examiner respectfully maintains the rejection of claim 16 and should be sustained.

Secondly, as to claim 17, Nelson and King do not teach," *asking for a type of the annotation information before the receiving and storing.*" See the brief at bottom half of page 15.

The examiner respectfully disagrees.

As discuss in the above (see the current Examiner Answer Pg 8-9), King teaches, "*asking for a type of the annotation information before the receiving and storing.*"
(See King at Column 3, Lines 15-25, discloses the types of annotations, which can be created, include free-hand bitmap drawings, text, and audio data. Also King at Column 2 Lines10-20, teaching the annotation data structure is stored.)

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to have modified Nelson's teaching, discloses an annotation

management configured to receiving an indication that annotation of media information

is desired; storing annotation information and modifying of the media information to

reflect a presence of the annotation information, to includes a means of asking for a

type of the annotation information before the receiving and storing as taught by King, to

provide a predictable result of outputting stored media information based on an

associated index file, wherein displaying the file of indexed data structures using a file

display routine (i.e. full motion video playback of full motion digital video- King at

Column 2,Lines 5-15), and provide an annotation tool that allows reductions in

production time, more effective utilization of resources, and greater communication in

general during creation of multimedia products or other large scale indexed data files in

real time interaction among developers and /or users (see King at col. 1 lines 25-67).

Following KSR direction, using the broadest reasonable interpretation, and cites

evidences above, the Examiner had found that Nelson in view of King have taught all

the limitation of claim 17 and the Examiner has established "some motivation or

suggestion to combine the prior art teachings" can be found in the prior art, the nature of

the problem, or the knowledge of a person having ordinary skill in the art. See, e.g., Al-

Site Corp. v. VSI Int'l, Inc., 174 F. 3d 1308, 1323–1324 (CA Fed. 1999). KSR challenges that

test, or at least its application in this case. See 119 Fed. Appx. 282, 286–290 (CA Fed. 2005).

Accordingly, for at least all the above evidence, therefore the Examiner respectfully maintains the rejection of claim 17 and should be sustained.

Thirdly, As to claims 18-20, Nelson and King do not teach," *detecting a reference to stored annotation information in the index file, and retrieving annotation information associated with the reference, and selectively combining the annotation information and the media information.*" See the brief at page 16.

The examiner respectfully disagrees.

As discuss in the above (see the current Examiner Answer Pages 9-11), King teaches, "*detecting a reference to stored annotation information in the index file, and retrieving annotation information associated with the reference, and selectively combining the annotation information and the media information.*"
(See King at the Abstract discloses during playback, the annotation memory is monitored to detect annotation data structure for indexed data structures currently being displayed.

Also see King at Fig. 9 and also at Column 12, Lines 1-10, discloses the annotation list 901 includes a first field 911, which points back to the annotation document 900. Also, a field 912 includes a pointer to the note list 902. A next field 913 indicates the number of annotations in the list. In this structure, an annotation has the structure shown at 903, and identifies the number of notes, which have been created for a given frame in the video file 904. After field 913, the following fields 914, 915 include

annotation structures, having the form shown at 903, using the broadest reasonable

interpretation it is the same as the annotation information associated with the reference

as claimed.

Also see King at Fig. 9 and also at Column 11,Line 50 → Column 12, Line 5,

discloses the annotation document 900 includes a pointer 905 to the indexed data file,

such as video file 904, will constitute independently created annotation documents

which have *been merged into a single annotation document,* having a structure shown

at 900.)

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to have modified Nelson's teaching, discloses an annotation

management configured to receiving an indication that annotation of media information

is desired; storing annotation information and modifying of the media information to

reflect a presence of the annotation information, to includes a means of detecting a

reference to the stored annotation information in the index file; retrieving annotation

information associated with the reference; selectively combining the media information

and the annotation information as taught by King, to provide a predictable result of

outputting stored media information based on an associated index file, wherein

displaying the file of indexed data structures using a file display routine (i.e. full motion

video playback of full motion digital video- King at Column 2,Lines 5-15), and provide an

annotation tool that allows reductions in production time, more effective utilization of

resources, and greater communication in general during creation of multimedia products

or other large scale indexed data files in real time interaction among developers and /or

users (see King at col. 1 lines 25-67).

Following KSR direction, using the broadest reasonable interpretation, and cites

evidences above, the Examiner had found that Nelson in view of King have taught all

the limitation of claims 18-20 and the Examiner has established <u>"some motivation or</u>

<u>suggestion to combine the prior art teachings" can be found in the prior art, the nature of</u>

<u>the problem, or the knowledge of a person having ordinary skill in the art.</u> See, e.g., Al-

Site Corp. v. VSI Int'l, Inc., 174 F. 3d 1308, 1323–1324 (CA Fed. 1999). KSR challenges that

test, or at least its application in this case. See 119 Fed. Appx. 282, 286–290 (CA Fed. 2005).

Accordingly, for at least all the above evidence, therefore the Examiner

respectfully maintains the rejection of claims 18-20 and should be sustained.

Therefore the Examiner respectfully maintains the rejection of claims 16-20, and

should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Quoc A. Tran/
Examiner, Art Unit 2176
03/31/2009

Conferees:

/DOUG HUTTON/
Supervisory Patent Examiner, Art Unit 2176

/Stephen S. Hong/
Supervisory Patent Examiner, Art Unit 2178